

LYNNFIELD CONSERVATION COMMISSION

MINUTES

DECEMBER 12, 2017

PRESENT: Chair Paul Martindale
Melanie Lovell
Angelo Salamone

Don Gentile
Christopher Martone

Chair Martindale called the meeting to order at 6:30 p.m. and adjourned the meeting at 8:32 p.m.

PUBLIC HEARING, NOTICE OF INTENT, 3 TIMBERHILL TERRACE, OWNER:

Lovell called the hearing to order at 6:31 p.m. and read the legal notice as printed in the November 22, 2017 issue of the Lynnfield Villager. The LCC was in receipt of an NOI dated November 16, 2017, a November 29th letter sent to Town Administrator James Boudreau from applicant Rosie Dalomba, as well as a November 30th email exchange about the situation regarding this property between Boudreau and Adelson. Septic installer Jon Whyman was present to discuss this project. The entire property lies within the 200' riverfront area of Hawkes' Brook. Whyman said that from an engineering standpoint, everything was done to stay as far away from the brook as possible. The wetlands are flagged. Lynn Water & Sewer requested that the forced main be relocated to the other side of the house. Plastic tanks will be installed due to the location of their placement outside of the 100' buffer zone. The proposed system is a pump system with no increase in flow for this 3 bedroom dwelling. The top of bank is located approximately 140'-150' away. The Board of Health granted four variances which are listed on the plan, which were unavoidable according to Whyman. The old tanks are to be removed offsite. A silt fence will be installed along the driveway for erosion control. The plan was sent to DEP on November 16, 2017 but a file number has not yet been issued. The LCC had no concerns. *On a motion duly made by Lovell and seconded by Gentile, the LCC voted (5-0) to continue the hearing until a DEP file number is issued.*

PUBLIC HEARING, ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION, 421R, 445 & 449 BROADWAY & 801 & 807 SALEM STREET, BROADWAY LYNNFIELD PROPERTIES, LLC:

Lovell called the hearing to order at 6:45 p.m. and read the legal notice as printed in the November 22, 2017 issue of the Lynnfield Villager. Greg Hochmuth and Chris Sparages of Williams & Sparages were present along with abutters Lauren West of 80 Canterbury, Robert MacDougall of 55 Canterbury and Charles McDonald of 64 Canterbury. Hochmuth delineated the jurisdictional areas on the property and is asking for the approval of the resources boundaries only. The wetland resources on the property are a large Bordering Vegetated Wetland, two intermittent streams, but no vernal pools on this site which is comprised of five separate parcels. Hochmuth and wetland scientist Kristin Kent walked the site on November 22, 2017 and the LCC also conducted site visit. Kent agreed with Hockmuth's wetland flags. It appears some wetland was filled along the rear of the Canterbury Road. There is also some debris and construction materials being stored on the site by the abutters which may be grounds to trigger a future Enforcement Order. A DEP number has been issued. MacDougall was concerned with the potential parking areas. Hochmuth outlined the areas where building and

paving would be permissible. *On a motion duly made by Gentile and seconded by Lovell, the LCC voted (5-0) to close the hearing. On a motion duly made by Lovell and seconded by Gentile, the LCC voted (5-0) to issue an Order of Resource Area Delineation.*

RATIFY EMERGENCY CERTIFICATE: BEAVER DAM BREECH IPSWICH RIVER, LYNN WATER & SEWER LAND: Last year the beavers started to build a dam on the Lynn River Water & Sewer property near the Ipswich River and Bennett Keenan. After leaving the area, they returned this fall. Paul Martindale signed the Emergency Permit on November 20, 2018 to breach the dam and to allow for hand removal of the dam. This Permit is only good for 30 days. The work started on December 7, 2017. *On a motion duly made by Salamone and seconded by Gentile, the LCC voted (5-0) to ratify the Emergency Permit.*

MINUTES: *On a motion duly made by Gentile and seconded by Lovell, the LCC voted (5-0) to accept the September 19, 2017 minutes, as amended.*

PUBLIC MEETING, REQUEST FOR DETERMINATION, SETH HARRIS, 6 RAMSDELL WAY: Lovell called the meeting to order at 7:15 p.m. and read the legal notice as printed in the November 22, 2017 issue of the Lynnfield Villager. Adam Marchionda of Marchionda & Associates was present to speak on behalf of this request. Marchionda said Harris had been previously granted a Negative Determination for a screened-in porch at this dwelling. His client is proposing a deck 63' from the wetlands, constructed on sonatubes. The LCC is familiar with the location. *On a motion duly made by Lovell and seconded by Martone, the LCC voted (5-0) to close the hearing. On a motion duly made by Lovell and seconded by Salamone, the LCC voted (5-0) to issue a Negative Determination of Applicability.*

MINUTES: *On a motion duly made by Gentile and seconded by Lovell, the LCC voted (5-0) to accept the October 17, 2017 minutes, as amended.*

CERTIFICATE OF COMPLIANCE REQUEST, 434 SUMMER STREET: John Whyman was present to speak on behalf of this request. Whyman said he visited the property today and retagged the installed cedar posts. The posts were installed 15' from the wetlands due to the limited amount of maintained lawn in the rear of this tight lot. The LCC visited the site and found it to be sparsely vegetated. After the LCC visit, Whyman hydroseeded the slopes approximately 2-3 weeks ago. He believes the seed will adhere but will revisit in the spring to check for erosion. The home is currently under contract. The LCC observed that the downspout, off of the back corner, flows over the newly seeded lawn and has begun to erode. Whyman said he will dig a small dry well to capture the flow. Adelson informed Whyman that the LCC needs a plan stamped with a PE stamp. The LCC was overall pleased with the site improvements. *On a motion duly made by Gentile and seconded by Lovell, the LCC voted (6-0) to issue a Partial Certificate of Compliance contingent upon the LCC's receipt of a PE stamped as-built plan.*

CERTIFICATE OF COMPLIANCE REQUEST, 26 MAIN STREET: The LCC was in receipt of Hayes Engineering Certificate of Compliance request dated November 10, 2017, Linden Engineering's COC request review dated December 11, 2017, applicant Richard Tisei's picture dated November 3, 2017 and the Hayes Engineering as-built revised November 10, 2017. Tisei also sent the LCC pictures of the trees to clarify his concerns with those falling down since

Jones' review noted that trees were cut in, or close to, the wetlands. Martindale quoted comment #4 of the review, "From our observation at the site, it's not clear that all of the drainage from the front parking area flow to the catch basin in the rear site. Additional spot elevation should be taken in the main driveway, where the new parking lot driveway meets it, to clearly demonstrate that the drainage flows consistent with what is shown on the 2009 approved plan." The LCC noticed the berm was not vegetated and vulnerable to erosion. Jones also pointed out that the front step to the building was not modified as shown on the approved plan. Jones' letter said based on the above issues, they would not recommend the issuance of a COC until the issues have been addressed by the applicant. The LCC will await Peter Ogren's response to the comments and feels there are too many outstanding and vegetative issues. The as-built is also lacking elevations to demonstrate that the flow is heading toward the discharge area.

STORMWATER MANAGEMENT BYLAW VIOLATION, CEASE & DESIST, LANZILLO AND ZEPAJ, 46, 50 & 52 GREEN STREET AND 633 BROADWAY: Town Counsel Tom Mullen and Attorneys Jay and Jason Kimball of Kimball & Kimball Associates of 618 Main, as well as John Ogren of Hayes were present to speak on behalf of this violation. The LCC was in receipt of the Cease & Desist Order issued by Adelson on their behalf. Attorney Jason Kimball spoke on behalf of Lanzillo and Zepaj explaining that three Approval Not Required lots on Green Street are located at this site where a subdivision is being proposed for the rear lot. Construction has begun on the front three lots with some accidental clearing on the rear lot. Attorney Kimball said they would like to have the Planning Board manage the entire project and cited Section II D: Applicability and its associated exemptions.

Adelson explained that she issued the Cease and Desist under the Lynnfield Stormwater Bylaw's Section II for disturbance of an acre or more and it was issued on the three Green Street ANR lots as well as the subdivision since the plan had not been filed yet with the Planning Board. Kimball said the subdivision had been the long term plan; the intention for the larger lot was always to subdivide it but they begin construction on the three ANR lots first. Kimball explained that clearing on the three smaller lots was permitted and the accidental clearing of the larger lot is the only jurisdictional issue. Adelson disagreed since the three smaller ANR lots square footage totals over one acre of disturbance by excavating foundations, stockpiling of fill, moving of earth and cutting/stumping of trees. Kimball suggested that the smaller ANR lots will be incorporated into the subdivision. As it exists now, two full and one partial foundation have been poured. The LCC visited the site on December 9, 2017.

Kimball said that although the LCC does have jurisdiction, an exemption to the jurisdiction is when there has been a site plan, subdivision approval or special permit from the Planning Board. The LCC noted that Kimball had neither of those approvals or permits at the time of the tree clearing. Kimball is requesting a deferment for the Cease & Desist Order to allow the subdivision process to occur, allowing for stormwater calculations and possible subdivision approval. He added a stormwater study has been conducted and a stormwater management plan would be included in the subdivision process. Linden Engineering has reviewed the stormwater piece and Kimball said he will send it to the LCC. Adelson noted that work has been stopped but said a subdivision approval could take months therefore the LCC has jurisdiction on the three ANR lots because it is over an acre of disturbance. Kimball believes the front three lots were not cleared and do not trigger the Stormwater Bylaw. Adelson corrected him that the bylaw says land

disturbance, not clearing. Kimball said they are separate lots not one large lot and do not trigger the bylaw for their land disturbance. Adelson said they are all in common ownership. Lynnfield Town Counsel Mullen declared his disagreement with Kimball and cited from the Stormwater Bylaw, Section II, D. Applicability: "No person may undertake a construction activity, including clearing, grading, and excavation that results in land disturbance that will disturb an acre of land or more or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb an acre of land or more draining to the Town's MS4 without a Storm Water Management Permit from the Authorized Enforcement Authority." Mullen said the three lot disturbance does trigger the Stormwater Bylaw and that those three lots shouldn't be looked at in isolation given the easements or covenants that are going to be used to drain the large subdivision behind it. He feels it needs to be considered as one large area under the Stormwater Bylaw. Mullen informed the LCC that they are the authority on the stormwater permit unless the Planning Board grants site plan approval and suggested the LCC oversee the erosion controls. He added that he is not comfortable with a deferment. Adelson said the applicant would like to backfill the lots for safety reasons. Kimball said the foundation structures could fail if they are not backfilled. They would also like to waterproof the foundations and add decking (flooring onto the foundation) to keep the integrity of the foundations walls from moving. No other work is being proposed except what is noted above and the work should be completed within two weeks. Erosion controls are already in place. No work should occur on the site until the Planning Board approves the subdivision. Adelson requested a letter from the applicants stating what the proposed work is to be done prior to any work being done on the site. There are currently two full foundations and one partial. The third foundation has only forms set. The LCC noted that the allowable work is only for Lot A & Lot B, the lots with the completed foundations. Work on the third lot is limited to fencing; a foundation shall not be poured. Adelson requested to be notified when the site is being secured, prior to the beginning of work. Kimball requested two weeks to complete the work. *On a motion duly made by Lovell and seconded by Gentile, the LCC voted 5-0 to ratify the Cease and Desist Order issued on November 28, 2017. On a motion duly made by Gentile and seconded by Lovell, the LCC voted 5-0 to issue a partial release of the Cease and Desist Order to allow limited work on Lot A, B, & C within two weeks from the December 13, 2017 contingent on the LCC's receipt of a letter from the applicants' representative listing the proposed work.*

CERTIFICATE OF COMPLIANCE REQUEST, 11 HERITAGE LANE: John Whyman explained that a septic system had been installed at this site years ago. An Order of Conditions had been issued but it was never closed out. Adelson explained the project had come before the LCC several years ago and due to the onset of winter, the LCC allowed the applicant to repair with a condition that they replant/repair the wetland they damaged in the rear of the property. The replication work was never completed and the original applicant has since passed away. Adelson requested that a wetland scientist create a planting plan, have it presented to the LCC and suggested that money be set aside in escrow for the planting.

PILLINGS POND UPDATES: An estimate was received from Kara at Solitude for \$23,500. Adelson amended the Capital Request to reflect the change and forwarded it to the Town Administrator.

BOSTON CLEAR WATER UPDATE: The Order of Conditions was issued with copies available for LCC members.

VIOLET CIRCLE UPDATE: The subdivision roadway and drainage have been installed.

JOB DESCRIPTION: Adelson submitted a job description for the Conservation Administrator to the Personnel Board and Town Administrator.

SITE VISITS: The LCC scheduled site visits for Saturday, January 13, 2018 at 9:30 a.m.

GREENBELT TREE CUTTING: Boston Clear Water Attorney Julie Connolly contacted Adelson to report tree cutting on the Greenbelt property abutting the BCW property. Adelson requested copies of the pictures taken by Gattineri. Adelson visited the site with Kristin Kent the following week. The Greenbelt representative Bill O'Brien met them at his property and walked the Greenbelt land pointing out the trees from Gattineri's pictures. He explained that they hired someone because a tree fell and they had to remove an additional tree to keep the path clear for the Fire Department.

MOTION TO ADJOURN: On a motion duly made by Salamone and seconded by Lovell, the LCC voted (5-0) to adjourn at 8:32 p.m.

As recorded and submitted by Marlene Clapp and Betty Adelson

Betty Adelson
Conservation Administrator